

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN M. PENN,

No. C 07-2230 SI (pr)

Petitioner,

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

v.

ROBERT AYERS, JR., warden,

Respondent.

Petitioner has filed a notice of appeal from the order denying his petition for writ of habeas corpus that challenged a parole denial decision. Under the recent decision of Hayward v. Marshall, 603 F.3d 546, 554 (9th Cir. 2010), a petitioner must obtain a certificate of appealability to appeal such a decision.

A certificate of appealability will not issue because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This is not a case in which "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

IT IS SO ORDERED.

DATED: July 19, 2010



SUSAN ILLSTON
United States District Judge